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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,) CASE NO. CR 22-00168-001 WHO
Plaintiff,)
v.)
MIKLOS DANIEL BRODY,) **APPLICATION FOR WRIT OF CONTINUING
GARNISHMENT**
Defendant,) (FINANCIAL ACCOUNT)

CHARLES SCHWAB & CO., INC., AS)
SUCCESSOR IN INTEREST TO TD)
AMERITRADE, INC.,)
Garnishee.)

Plaintiff United States of America makes this application (“Application”) pursuant to the Federal Debt Collection Procedures Act of 1990, 28 U.S.C. § 3205(b)(1), to the United States District Court to issue a Writ of Continuing Garnishment upon the judgment entered against the defendant-judgment debtor Miklos Daniel Brody (“Defendant”), for property now held by Charles Schwab & Co., Inc., as Successor in Interest to TD Ameritrade, Inc. (the “Garnishee”). The United States submits this Application for Writ of Continuing Garnishment. Declaration of Zarinah Holland in Support of the

1 Application, and Clerk's Notice and Instructions to Defendant. These documents are being filed
 2 pursuant to 28 U.S.C. § 3004(c), which permits the United States to serve documents effecting a post-
 3 judgment remedy on a debtor “[a]t such time as counsel for the United States considers appropriate, but
 4 not later than the time a prejudgment or postjudgment remedy is put into effect under this chapter....” A
 5 proposed Order Granting Application for Writ of Continuing Garnishment and a proposed Writ of
 6 Continuing Garnishment have been lodged with this Application.

7 **RECITALS**

8 1. The Federal Debt Collection Procedures Act (“FDCPA”) provides the exclusive civil
 9 procedures for the United States to “recover a judgment on a debt.” 28 U.S.C. § 3001(a)(1). These
 10 procedures include seeking a writ of garnishment from the Court. 28 U.S.C. § 3205.

11 2. Defendant resides at U.S. Penitentiary Lompoc, 3901 Klein Blvd., Lompoc, CA 93436.

12 3. Defendant is indebted to the United States in the original amount of \$530,566.37, arising
 13 out of a Judgment in a Criminal Case (the “Judgment”) entered on January 3, 2024, in the above-captioned
 14 matter. (Dkt. No. 225.)

15 4. As of the date of this Application, the Defendant has been credited with a total of
 16 approximately \$126,300.00 towards the judgment debt. Declaration of Zarinah Holland in Support of
 17 Application for Writ of Continuing Garnishment (“Holland Decl.”), ¶ 4.

18 5. As of March 26, 2024, there is a balance of \$409,835.81 due on the judgment debt,
 19 comprised of \$300.00 in assessment, \$1,000.00 in fine, and \$529,266.37 in restitution principal. Interest
 20 accrues at the rate of 4.88%. (“Holland Decl.”), ¶ 5. The United States seeks to recover this amount
 21 plus the statutorily authorized litigation surcharge of ten percent (10%) of the unpaid restitution balance
 22 (\$40,983.58). 28 U.S.C. § 3011(a). Thus, the total amount sought by this writ is \$450,819.39.

23 6. The restitution judgment issued against Defendant in the above referenced case is
 24 immediately enforceable by the United States pursuant to the Mandatory Victims Restitution Act
 25 (“MVRA”). 18 U.S.C. § 3664(m)(1)(A)(i); 18 U.S.C. § 3613(f).

26 7. Under the MVRA, the United States may enforce the order of restitution “against all
 27 property or rights to property” of Defendant, subject to certain limited exceptions. 18 U.S.C. § 3613(a),
 28 (f); 18 U.S.C. § 3664(m)(1)(A)(i). Section 3613(c) specifically provides that the imposition of a fine or

1 restitution obligation gives rise to a lien in favor of the United States on all property and rights to property
 2 of the person fined as if the liability of the person fined were a liability for a tax assessed under the Internal
 3 Revenue Code. 18 U.S.C. § 3613(c).

4 8. The United States Attorney General through the United States Attorney's Offices is
 5 entitled to enforce Defendant's judgment through federal or state civil procedures. See 18 U.S.C.
 6 § 3613(a). These procedures include seeking a writ of garnishment from the Court pursuant to the FDCPA,
 7 28 U.S.C. §3205. The FDCPA provides the exclusive civil procedures for the United States to "recover a
 8 judgment on a debt." 28 U.S.C. § 3001(a)(1).

9 9. In accordance with the above authority, the United States may enforce the criminal
 10 judgment against all of Defendant's property, unless the property is specifically exempted by the
 11 statute.¹ 18 U.S.C. § 3613(a).

12 10. The Financial Litigation Program ("FLP") of the United States Attorney's Office for the
 13 Northern District of California conducts reviews of defendants' ability to pay and investigates their
 14 assets. *See Holland Decl., ¶ 6.* In the course of FLP's investigation, the FLP found the Defendant has
 15 financial accounts with different companies. *Id.*

16 11. On or about January 17, 2024, the FLP sent a Notice of Third-Party lien to TD
 17 Ameritrade, Inc., notifying it of the United States' judgment lien against Defendant. Holland Decl., ¶ 7,
 18 Ex. "A". On or about January 23, 2024, Garnishee responded, acknowledging Charles Schwab & Co.,
 19 Inc., as Successor in Interest to TD Ameritrade, Inc., and indicated that Defendant owns an Individual
 20 Account at Garnishee, which bears an account number ending in -7908 and contains approximately
 21 \$35,328.90 in securities and approximately \$10,131.92 in cash, totaling a net approximate value of
 22 \$45,370.82. *Id.*, Ex. "B".

23 12. On or about January 22, 2024, the United States demanded payment of the judgment
 24 debt from Defendant. Holland Decl., ¶ 8, Ex. "C". Thus, the United States has demanded

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26 1 The only categories of property that are exempt by law from enforcement of a criminal
 27 restitution order are (1) some, but not all of the properties exempt from levy for federal tax obligations,
 28 and (2) 75% of disposable weekly or monthly wages. *See* 18 U.S.C. § 3613(a)(1), incorporating 26
 U.S.C. §§ 6334(a)(1) - (a)(8), (a)(10), and (a)(12).

1 payment of the judgment debt not less than 30 days prior to the date of this Application, and Defendant
2 has failed to satisfy the debt. *See* 28 U.S.C. § 3205(b)(1)(B).

3 13. The United States thus believes that the Garnishee has possession of property in which
4 the Defendant has a substantial nonexempt interest, including, but not limited to, the account bearing the
5 number ending in -7908. *See* Holland Decl., Ex. "B".

6 14. The Garnishee's name and address is:

7 Charles Schwab & Co., Inc.
8 Legal Services (DFW1-02-886)
3000 Schwab Way
West Lake, TX 76262
9

10 WHEREFORE, the United States of America respectfully requests the Court to issue a Writ of
11 Continuing Garnishment to the Garnishee in accordance with the Federal Debt Collection Procedures Act
12 of 1990, 28 U.S.C. §§ 3001 *et seq.*

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14 Respectfully submitted,

15 ISMAIL J. RAMSEY
16 United States Attorney
17 Dated: March 26, 2024 By: /s/ Shining J. Hsu
18 SHINING J. HSU
Assistant United States Attorney
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